

From: [Fugh, Justina](#)
To: [Matten, Sharlene](#)
Subject: are you still available to join our call at 4 pm?
Date: Wednesday, July 29, 2020 4:06:00 PM

If not, I'm okay. I confirmed all the particulars with Ferne, and will be able to affirm her decision for each of the members. We don't need to go over it again.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Mosley, Ferne](#)
To: [Fugh, Justina](#)
Subject: FW: Attention for Action FW: Coalition Comment on Draft Asbestos Risk Assessment
Date: Wednesday, July 29, 2020 1:34:00 PM
Attachments: [200601_CoalitionComments_2020AsbestosRiskAssessment_EPA\[2\]\[1\].pdf](#)
Importance: High

Hi Justina – here is the background information regarding the meeting on June 4 with Matt, Alex Dunn, Hayley, Steve Knott, Sharlene & Noelle Green regarding the asbestos risk assessment of the SAP. (b) (5)

During the meeting, (b) (5)

That meeting was my last involvement in the matter.

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From: Mosley, Ferne
Sent: Wednesday, June 3, 2020 12:54 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Attention for Action FW: Coalition Comment on Draft Asbestos Risk Assessment
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FYI.. (b) (5)

and likely circle back with me as they are to brief Matt about this tomorrow. They just called to alert me about this, so just letting you know in case you hear anything from Jim or Matt.

Ferne

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From: Hanley, Mary <Hanley.Mary@epa.gov>
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Cc: Wooge, William <Wooge.William@epa.gov>
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Hi Hayley. See the incoming saying there is a conflict of interest for panelists because they serve as witnesses for plaintiff's in asbestos litigation. Can we discuss briefly so that I can fill you in? In the meantime (b) (5)

[REDACTED] I am in the OPPT general but can hop off for a call with you. 202-570-5576

From: Dunn, Alexandra <dunn.alexandra@epa.gov>
Sent: Wednesday, June 03, 2020 11:26 AM
To: Fischer, David <Fischer.David@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Collazo Reyes, Yvette <CollazoReyes.Yvette@epa.gov>; Henry, Tala <Henry.Tala@epa.gov>; Pierce, Alison

<Pierce.Alison@epa.gov>; Hanley, Mary <Hanley.Mary@epa.gov>

Subject: FW: Coalition Comment on Draft Asbestos Risk Assessment

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Assistant Administrator

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Washington, DC

June 2, 2020

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Re: Draft Risk Evaluation for Asbestos: Docket EPA-HQ-OPPT-2019-0501

Dear Administrator Wheeler and Drs. Wong, Barone and Peterson:

The U.S. Chamber of Commerce,¹ U.S. Chamber Institute for Legal Reform,² American Property Casualty Insurance Association,³ American Tort Reform Association,⁴ Aerospace

¹ The U.S. Chamber of Commerce is the world's largest business organization representing the interests of more than three million businesses of all sizes, sectors, and regions. Our members range from mom-and-pop shops and local chambers to leading industry associations and large corporations. All sources cited in the footnotes are on file and available upon request.

² The U.S. Chamber Institute for Legal Reform is the country's most influential and successful advocate for civil justice reform, both in the U.S. and abroad. ILR is a 501(c)(6) tax-exempt, separately incorporated affiliate of the U.S. Chamber of Commerce.

³ The American Property Casualty Insurance Association is the primary national trade association for home, auto, and business insurers. The American Insurance Association and Property Casualty Insurers Association of America merged to form APCIA in 2019.

⁴ Founded in 1986, the American Tort Reform Association is a broad-based coalition of businesses, corporations, municipalities, associations, and professional firms that have pooled their resources to promote reform of the civil justice system with the goal of ensuring fairness, balance, and predictability in civil litigation.

Industries Association,⁵ Coalition for Litigation Justice,⁶ International Association of Defense Counsel,⁷ National Federation of Independent Business Small Business Legal Center,⁸ Product Liability Advisory Council, Inc.,⁹ and Washington Legal Foundation,¹⁰ and submit this comment to voice our strong objection to the one-sided inclusion of paid experts for asbestos plaintiffs' law firms, whose opinions have routinely been rejected by courts as not having a scientific basis, on the Toxic Substances Control Act (TSCA) Science Advisory Committee on Chemicals (SACC) and TSCA SACC Ad Hoc Peer Reviewers for the March 2020 Draft Risk Evaluation for Asbestos. It is disappointing that EPA chose to include a number of highly compensated experts for plaintiffs in asbestos personal injury cases but to exclude any testifying experts with differing opinions from both the SACC and Ad Hoc Peer Reviewers. We have a substantial interest in the balance and credibility of the reviewers and the fairness of the process given the potential impact of the risk evaluation in asbestos litigation against our members and clients.

Due to the unique and ubiquitous nature of asbestos litigation – which is approaching its fifth decade – we appreciate that many of the experts in the field have testified at one time or another in asbestos cases. Thus, it may not be possible to form a committee of the top experts in the field who have never been involved in asbestos litigation in some way. Indeed, experts with experience in the asbestos litigation should be included on EPA panels assessing the risk of asbestos as they possess unique and relevant expertise. But the participation of experts involved in the litigation must be balanced and provide EPA with a diversity of perspectives.

EPA's decision to select experts who exclusively testify in support of asbestos plaintiffs may lead other distinguished members of the SACC and Ad Hoc Reviewers to stray from objective science. Additional experts are likely to file comments that identify significant flaws in the Draft

⁵ Founded in 1919, the Aerospace Industries Association is the premier trade association, advocating on behalf of over 300 companies members for policies and investments that keep our country strong, bolster our capacity to innovate and spur economic growth. AIA's members represent the United States of America's leading manufacturers and suppliers of aircraft and aircraft engines, helicopters, unmanned aerial systems, missiles, and space systems.

⁶ The Coalition for Litigation Justice, Inc. is a nonprofit association formed by insurers in 2000 to address and improve the litigation environment for asbestos and other toxic tort claims. The Coalition includes Century Indemnity Company; Great American Insurance Company; Nationwide Indemnity Company; Allianz Reinsurance America, Inc.; Resolute Management, Inc., a third-party administrator for numerous insurers; and TIG Insurance Company.

⁷ The International Association of Defense Counsel has been serving a distinguished membership of in house and outside defense attorneys and insurance executives since 1920, and currently has approximately 2,500 invitation-only, peer-reviewed members. Its membership includes lawyers in large and small law firms, senior counsel in corporate law departments, and corporate and insurance executives.

⁸ The National Federation of Independent Business Small Business Legal Center is a 501(c)(3) public interest law firm that serves as the voice of small business in the nation's courts and a legal resource for small business owners nationwide. It is affiliated with NFIB, the nation's oldest and largest organization dedicated to representing the interests of small-business owners throughout all fifty states. Members of NFIB own a wide variety of America's independent businesses from manufacturing firms to hardware stores.

⁹ The Product Liability Advisory Council, Inc. is a nonprofit association with approximately 100 corporate members representing a broad cross-section of American and international product manufacturers. PLAC's perspective is derived from the experiences of a corporate membership that spans a diverse group of industries in various facets of the manufacturing sector. In addition, several hundred of the leading product liability defense attorneys in the country are sustaining members of PLAC.

¹⁰ The Washington Legal Foundation is a public interest law firm and policy center. WLF devotes a substantial portion of its resources to defending free enterprise, individual rights, a limited and accountable government, and the rule of law.

Risk Evaluation for Asbestos, but the opportunity to file a comment is not an adequate substitute for direct participation on the SACC and Ad Hoc Reviewer committees.

EPA should understand that the committees will not be able to perform their functions adequately unless they are comprised of objective experts and/or experts who represent a broad range of interests and expertise, so that divergent opinions can be expressed and discussed in the decision-making process. To achieve a balanced committee of experts, additional asbestos experts, including those who testify in litigation on behalf of defendants, must be included with the plaintiffs' experts who currently sit on the committees: Drs. Henry Anderson, Steven Markowitz, and Marty Kanarek.

Even when an expert attempts to leave self-interest at the door, it is bound to infect decision-making to some extent. Here, our concern goes beyond questioning whether plaintiff-side experts can cast aside their financial self-interest in perpetuating asbestos litigation in order to properly serve the EPA and public. Drs. Markowitz and Anderson have documented ties to the Asbestos Disease Awareness Organization (ADAO), a lobbying group that advocates for the "need for a global asbestos ban."¹¹ As discussed further below, these individuals have an agenda that permeates their work and, in our opinion, compromises their objectivity.

We therefore ask EPA to modify the composition of the SACC and Ad Hoc Reviewer committees before the Draft Risk Evaluation for Asbestos is reviewed. Either the paid experts for asbestos plaintiffs' law firms should be removed or other testifying experts, including those who testify in support of defendants, must be added to the committees to allow EPA to hear from all perspectives and be fully informed.

Our position tracks EPA's stated objectives of selecting peer reviewers to achieve an "overall balance of different scientific perspectives on the Committee" and avoid the "appearance of loss of impartiality, lack of independence" when selecting ad hoc panelists. 83 Fed. Reg. No. 178 (Sept. 13, 2018), at 46487, at <https://www.govinfo.gov/content/pkg/FR-2018-09-13/pdf/2018-19952.pdf>; see also U.S. EPA, *Science and Technology Policy Council: Peer Review Handbook* § 5.2.2, at 70 (4th ed. Oct. 2015) ("[P]eer reviewers should be impartial and free from financial COIs or other ethics issues...such as an appearance of a loss of impartiality.... [I]t also is important to include a broad enough spectrum of other related experts to consider wider dimensions of the issue(s)."), at https://www.epa.gov/sites/production/files/2016-03/documents/epa_peer_review_handbook_4th_edition.pdf. Only a change in the composition of the committees will meet these EPA objectives.

As the Draft Risk Assessment points out, asbestos has not been mined or otherwise produced in the U.S. in almost twenty years. Further, none of the potent forms of asbestos are imported into the U.S. Only the serpentine variety, chrysotile, is sold in the U.S., and even that is limited to a handful of applications that are discussed in the draft report.

Indeed, because of the exceptionally limited present-day use of asbestos, the impact of the findings of any report on asbestos are most likely to appear in litigation. Asbestos personal injury litigation has bankrupted some 120 companies, costs industry and insurers billions of dollars annually, shows no sign of abating, and is anticipated to continue for several decades.

The COVID-19 pandemic has created added stress on American business in a manner not seen since the Great Depression. For these reasons, any EPA risk assessment report for asbestos

¹¹ <https://www.asbestosdiseaseawareness.org/about-adao/who-we-are/>.

must be objective and guided by sound science. EPA should avoid “memorializing a distortion of the scientific literature which could be used by opposing experts to influence juries in finding against some entities that have historically manufactured and sold asbestos-containing products.”¹²

Below we provide background with regard to our concerns as to Drs. Henry Anderson, Steven Markowitz, and Marty Kanarek and the ties of Drs. Markowitz and Anderson to the ADAO.

Background of ADAO

The ADAO is an organization that works “towards preventing asbestos exposure by urging lawmakers to ban asbestos, supporting the community of individuals whose lives have been devastated by asbestos, and educating the public about asbestos disease prevention.”¹³ ADAO describes itself as “the largest independent 501(c)(3) nonprofit in the U.S. dedicated to preventing asbestos exposure, eliminating asbestos-related diseases, and protecting asbestos victims’ civil rights through education, advocacy, and community initiatives.”¹⁴

Linda Reinstein is ADAO’s President and CEO.¹⁵ Legislation introduced in Congress, The Alan Reinstein Ban Asbestos Now Act (ARBAN), is named after Ms. Reinstein’s late-husband.¹⁶ Just in 2019, in order to advocate for an international ban on asbestos use, ADAO publicly asserts that it:

- Worked with lawmakers to get the ARBAN introduced in both the Senate and the House.
- Passed ARBAN through the Committee on Energy and Commerce in the House of Representatives and onto the House Floor for a vote.
- Ensured the passage of U.S. Senate’s 15th Annual Resolution, which designated April 1-7, 2019 as “National Asbestos Awareness Week.”¹⁷

Additionally, in May 2019, ADAO testified before the U.S. House Energy and Commerce Subcommittee on Environment and Climate Change during a legislative hearing titled, “Ban Asbestos Now: Taking Action To Save Lives And Livelihoods” which focused on ARBAN.¹⁸

According to ADAO’s website, “For nearly four years, ADAO and other stakeholders have urged the EPA to use the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Chemical Safety Act) to ban asbestos.”¹⁹ To that end, ADAO has directly requested the EPA to use the Lautenberg Chemical Safety Act as a means to ban asbestos.²⁰ The Draft Risk

¹² Cary Stewart Sklare, *EPA Calls for Public Comment on “Draft Risk Evaluation for Asbestos,”* Apr. 15, 2020, at <http://www.schnader.com/wp-content/uploads/2020/04/EPA-Calls-for-Public-Comment-on-Draft-Risk-Evaluation-for-Asbestos2.pdf>.

¹³ *Id.*

¹⁴ <https://www.asbestosdiseaseawareness.org/about-adao/>.

¹⁵ <https://www.asbestosdiseaseawareness.org/about-adao/leadership/>.

¹⁶ <https://www.asbestosdiseaseawareness.org/newsroom/blogs/u-s-senate-and-house-of-representatives-introduced-the-alan-reinstein-ban-asbestos-now-act-of-2019-arban-bill-would-ban-asbestos-importation-and-use-within-one-year-of-enactment/>.

¹⁷ <https://www.asbestosdiseaseawareness.org/newsroom/blogs/2019-asbestos-disease-awareness-organization-year-in-review/>.

¹⁸ <https://www.asbestosdiseaseawareness.org/newsroom/blogs/title-congressional-champions-stand-behind-alan-reinstein-ban-asbestos-now-act-and-urge-congress-to-ban-asbestos/>.

¹⁹ <https://www.asbestosdiseaseawareness.org/newsroom/blogs/epa-reschedules-the-science-advisory-committee-on-chemicals-draft-risk-evaluation-for-asbestos-public-meeting-to-june-8-11-2020/>.

²⁰ March 15, 2017, Letter from Linda Reinstein on behalf of the ADAO to Administrator Scott Pruitt.

Evaluation for Asbestos was performed in accordance with the Frank R. Lautenberg Chemical Safety for the 21st Century Act.²¹

Dr. Henry Anderson

In November 2016, the ADAO pushed the EPA to act on asbestos by completing a campaign to collect support for an international sign-on letter to former EPA Administrator Gina McCarthy.²² Dr. Anderson joined an ADAO letter urging the EPA “to prioritize asbestos as one of the 2016 top ten high-risk chemicals for evaluation under TSCA, leading toward the prohibition of asbestos in manufacturing, processing, use, distribution in commerce, and disposal.”²³

Further, Dr. Anderson has testified on behalf of plaintiffs in asbestos personal injury cases since at least 1989.²⁴ He continues to testify on behalf of plaintiffs in asbestos personal injury cases,²⁵ charging at least \$400 per hour for this type of testimony.²⁶

Courts have rejected Dr. Anderson’s “any exposure” view of causation of asbestos disease because it is unsupported by the scientific literature.²⁷

Dr. Steven Markowitz

Dr. Markowitz is a member of the ADAO’s Science Advisory Board.²⁸ He is also recognized on the ADAO website as an ADAO 2019 and 2020 Emerald Donor.²⁹ In the past, Dr. Markowitz has signed on in support of Ms. Reinstein’s statements to Congress on behalf of ADAO.³⁰

In addition to his active role in ADAO, Dr. Markowitz has testified on behalf of plaintiffs in asbestos personal injury lawsuits for more than thirty years.³¹ He has been retained hundreds of times – always by plaintiffs’ firms.³² As of 2019, he charged \$600 per hour to testify in court,

²¹ March 2020 Draft Risk Evaluation for Asbestos, Executive Summary, 665-666.

²² <https://www.asbestosdiseaseawareness.org/newsroom/blogs/ban-asbestos-efforts-kick-hyperdrive-trump-victory-draws-future-epa-question/>.

²³ Letter from signatories (including Henry Anderson) to Administrator McCarthy, Nov. 9, 2016, at <https://www.asbestosdiseaseawareness.org/wp-content/uploads/2016/11/ADAO-Administrator-Gina-McCarthy-Sign-on-letter-FINAL.pdf>.

²⁴ Deposition of Henry Anderson, Oct. 21, 1989, *In re Asbestos Cases*, W. Va. Cir. Ct. Magnolia County, pp. 67:10-68:21, 104:22-105:5, 109:6-110:6.

²⁵ Dr. Anderson’s testimony list from Nov. 1, 2013 to Nov. 1, 2013, attached as Exhibit 6, to deposition of Dr. Anderson, dated Nov. 5, 2019, *Merline v. Building Serv. Indus. Supply Inc.*, Wis. Cir. Ct. Brown County, Consolidated Case Nos. 09-CV-11257, 11-CV-281.

²⁶ Deposition of Dr. Anderson, Nov. 19, 2018, *Ebel vs. Sprinkmann Sons Corp.*, Wis. Cir. Ct. Milwaukee County, No. 2016CV001390, p. 10:19-22.

²⁷ *See In re W.R. Grace & Co.*, 355 B.R. 462, 482 (Bankr. D. Del. 2006) (“Dr. Anderson’s analysis is unreliable. Dr. Anderson’s opinion, therefore, does not satisfy *Daubert* and its progeny and is not admissible. We exclude this evidence.”), *appeal denied*, 2007 WL 1074094 (D. Del. Mar. 26, 2007).

²⁸ <https://www.asbestosdiseaseawareness.org/about-adao/leadership/>; *see also* March 30, 2020, Letter from Linda Reinstein to Administrator Andrew Wheeler.

²⁹ <https://www.asbestosdiseaseawareness.org/newsroom/blogs/2019-adao-conference-sponsors/>; <https://www.asbestosdiseaseawareness.org/newsroom/blogs/2020-adao-conference-sponsors-and-donors/>.

³⁰ Examining the Human Health Effects of Asbestos and the Methods of Mitigating Such Impacts: Hearing Before the Committee on Environment and Public Works, U.S. Senate, 110th Cong., First Sess., June 12, 2007, U.S. Govt. Printing Office, 2011, pp. 170-192, specifically pp. 177 and 192.

³¹ Deposition testimony of Steven Markowitz, June 20, 2019, *Reinert v. American Biltrite, Inc.*, N.J. Super. Ct. Court Middlesex County, No. MID-L-2527-18AS, pp. 10:13-11:14.

³² *Id.*

and \$3,600 for each review and report he drafts.³³ He earned approximately \$240,000 in 2018 performing medical legal consulting in asbestos matters, which was roughly 40% of his total income.³⁴

Dr. Markowitz's trial opinions that encapsulated chrysotile products are a cause of mesothelioma have been struck by judges because they lack a scientific basis.³⁵

Dr. Marty Kanarek

Drs. Kanarek and Anderson have authored several studies together and are affiliated with the same academic institution.³⁶ Dr. Kanarek testifies on behalf of plaintiffs in asbestos personal injury cases.³⁷ He charges \$400 per hour for review of materials and \$600 per hour for his testimony.³⁸ In 2019, he made over \$100,000 testifying on behalf of plaintiffs in asbestos litigation matters.³⁹

* * *

EPA's Draft Risk Evaluation is a scientific document that should be analyzed by reference to published peer-reviewed literature. The risk evaluation process should not be unduly influenced by experts whose scientific theories have been rejected as not representative of mainstream science and whose involvement in asbestos advocacy organizations calls into question the impartiality of their work on the Risk Assessment.

The March 2020 Draft Risk Evaluation for Asbestos is not a policy document. It is a scientific document upon which policy decisions can be based. Thus, it is critical that the Risk Evaluation be based on sound science. Drs. Anderson, Markowitz, and Kanarek do not meet the criteria to serve as peer reviewers under the EPA's own guidelines, which require avoiding even an "appearance of loss of impartiality." The committees should be restructured to include additional experts, including experts who testify in support of asbestos defendants, to provide balance. In the alternative, testifying experts for plaintiffs should be removed so the committees are balanced and the peer review process is fair.

³³ *Id.* at 11:15-24.

³⁴ *Id.* at 11:25-12:17.

³⁵ See *Matter of New York City Asbestos Litig.*, 48 Misc. 3d 460, 483-484 (Sup. Ct. NY County, NY 2015) ("For all of these reasons, Markowitz's opinions, either individually or collectively, do not establish that asbestos contained in friction products can cause mesothelioma, and as he conceded, he could identify no study to support his proposition that there is an increased risk of contracting mesothelioma from exposure to auto brakes, clutches, or gaskets or that there is an increased risk of mesothelioma from the use of friction products or work on friction materials in the automobile industry.... Markowitz not only cited no study to support his opinion, but he also conceded that numerous studies contradict it."), *aff'd*, 32 N.Y.3d 1116 (2018).

³⁶ Deposition of Dr. Marty Kanarek, Feb. 24, 2020, *King v. ABB, Inc.*, Fla. Cir. Ct. Hillsborough County, No. 19-CA-002884, pp. 10:22-11:3, 12:2-24, 80:7-16, 90:8-18, 139:12-16, 184:23-187:25, 191:5-192:5.

³⁷ *Id.* at 24:23-27:12

³⁸ *Id.*

³⁹ *Id.*

Sincerely yours,

U.S. Chamber of Commerce

U.S. Chamber Institute for Legal Reform

Aerospace Industries Association

American Property Casualty Insurance Association

American Tort Reform Association

Coalition for Litigation Justice, Inc.

International Association of Defense Counsel

National Federation of Independent Business
Small Business Legal Center

Product Liability Advisory Council, Inc.

Washington Legal Foundation

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Hi, Noelle, I received this today from Sharlene and Hayley, so I wanted to make sure you are aware of it. They are crafting a response as Matt has asked their office for a briefing on this tomorrow. Sharlene and Hayley are preparing a response and will likely circle back with me.

Ferne L. Mosley, Attorney-Advisor

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Alexandra Dapolito Dunn, Esq.

Assistant Administrator

Office of Chemical Safety and Pollution Prevention

US Environmental Protection Agency

Washington, DC

From: [Fugh, Justina](#)
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Hi Joe,

I am rudely multi-tasking during the ADD meeting, but thought you'd like to see a first-person account of that asbestos panel meeting with Matt and Alex.

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Ferne L. Mosley, Attorney-Advisor

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Sent: Wednesday, June 3, 2020 12:40 PM

To: Mosley, Ferne <mosley.ferne@epa.gov>

Subject: FW: Attention for Action FW: Coalition Comment on Draft Asbestos Risk Assessment

Importance: High

Sharlene R. Matten, Ph.D.

Acting Division Director, Exposure Assessment Coordination and Policy Division

Office of Science Coordination and Policy

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington D.C. 20460

e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: Hughes, Hayley <hughes.hayley@epa.gov>

Sent: Wednesday, June 3, 2020 12:05 PM

To: Knott, Steven <Knott.Steven@epa.gov>; Matten, Sharlene <Matten.Sharlene@epa.gov>

Subject: FW: Attention for Action FW: Coalition Comment on Draft Asbestos Risk Assessment

Importance: High

FYSA

Hayley Hughes, DrPH, MPH, CSP

Director, Office of Science Coordination and Policy

Office of Chemical Safety and Pollution Prevention

US Environmental Protection Agency

Desk: 202.564.1116

Email: Hughes.hayley@epa.gov

From: Hanley, Mary <Hanley.Mary@epa.gov>

Sent: Wednesday, June 3, 2020 11:31 AM

To: Hughes, Hayley <hughes.hayley@epa.gov>

Cc: Wooge, William <Wooge.William@epa.gov>

Subject: Attention for Action FW: Coalition Comment on Draft Asbestos Risk Assessment

Importance: High

Hi Hayley. See the incoming saying there is a conflict of interest for panelists because they serve as witnesses for plaintiff's in asbestos litigation. Can we discuss briefly so that I can fill you in? In the meantime (b) (5)

I am in the OPPT general but can hop off for a call with you. 202-570-5576

From: Dunn, Alexandra <dunn.alexandra@epa.gov>

Sent: Wednesday, June 03, 2020 11:26 AM

To: Fischer, David <Fischer.David@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Collazo Reyes, Yvette <CollazoReyes.Yvette@epa.gov>; Henry, Tala <Henry.Tala@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Hanley, Mary <Hanley.Mary@epa.gov>

Subject: FW: Coalition Comment on Draft Asbestos Risk Assessment

Alexandra Dapolito Dunn, Esq.

Assistant Administrator

Office of Chemical Safety and Pollution Prevention

US Environmental Protection Agency

Washington, DC

From: [Matten, Sharlene](#)
To: [Eugh, Justina](#)
Subject: List of TSCA SACC PP members and ad hoc experts (yellow) used - Asbestos Meeting - link to folder to follow
Date: Wednesday, July 29, 2020 7:01:54 PM

| | | | |
|------------------|-------------------------|-------------------------------------|---------|
| Crump | Kenny | EPA/TSCA SACC Panelist | (b) (6) |
| Everitt | Jeffrey | EPA/TSCA SACC Panelist | (b) (6) |
| Herrick | Robert | EPA/TSCA SACC Panelist | (b) (6) |
| Jayjock | Michael | EPA/TSCA SACC Panelist | (b) (6) |
| Markowitz | Steven | EPA/TSCA SACC Panelist | (b) (6) |
| Kanarek | Marty | EPA/TSCA SACC Panelist | (b) (6) |
| Sheppard | Lianne | EPA/TSCA SACC Panelist | (b) (6) |
| Shukla | Arti | EPA/TSCA SACC Panelist | (b) (6) |
| Taioli | Emanuela | EPA/TSCA SACC Panelist | (b) (6) |
| Van Gosen | Bradley | EPA/TSCA SACC Panelist | (b) (6) |
| Anderson | Henry | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Bennett | Steve | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Blystone | Sheri | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Cory-Slechta | Deborah | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Davies | Holly | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Jimenez-Gonzalez | Conchita (Concepcion) | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Johnson | Mark | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Kaufman | Alan | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Kissel | John | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Rowlands | Craig | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Rudel | Ruthann | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Schlenk | Dan | EPA/TSCA SACC Perm Panelist | (b) (6) |
| Portier | Ken | EPA/TSCA SACC Perm Panelist (Chair) | (b) (6) |

Note Permanent Panel members are found in a folder called "Permanent Panel"

Sharlene R. Matten, Ph.D.

Senior Biologist, Exposure Assessment Coordination and Policy Division

Office of Science Coordination and Policy

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1200 Pennsylvania Ave., NW

Washington D.C. 20460

e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: [Matten, Sharlene](#)
To: [Fugh, Justina](#)
Subject: Matten, Sharlene shared the folder "Ethics Forms TB Reviewed" with you.
Date: Wednesday, July 29, 2020 7:09:09 PM
Attachments: [AttachedImage](#)
[AttachedImage](#)
[AttachedImage](#)

For review of Permanent Panel members and ad hoc experts - TSCA SACC meeting on draft risk evaluation for asbestos (held first week in June 2020). See e-mail that I sent with the list of names. Let me know if you have questions. Thanks, Sharlene



This link only works for the direct recipients of this message.



Ethics Forms TB Reviewed

Open



Sender will be notified when you open this link for the first time.

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Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

From: [Fugh, Justina](#)
To: [Mosley, Ferne](#)
Subject: RE: Application 2635.501
Date: Wednesday, July 29, 2020 2:35:00 PM

Thanks. In looking at Sharlene's notes, the only thought I had was that the "covered relationship" with a former employer/client does include a one year "cooling off" period, but only if the underlying issue is a specific party matter. (b) (5)

[REDACTED]

[REDACTED]

From: Mosley, Ferne
Sent: Wednesday, July 29, 2020 1:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Application 2635.501

FYI, my communication to Sharlene noting that these were not ethics issues, but were balance issues under FACA prior to our call with Matt & Alex.

Ferne L. Mosley, Attorney-Advisor

U.S. Environmental Protection Agency
Ethics Office/Office of General Counsel
William Jefferson Clinton Building North, Room 4113A
1200 Pennsylvania Ave, NW
Washington, DC 20460
(202) 564-8046 (desk)
(202) 306-2998 (mobile)
mosley.ferne@epa.gov

From: Mosley, Ferne
Sent: Thursday, June 4, 2020 12:28 PM
To: Matten, Sharlene <Matten.Sharlene@epa.gov>; Knott, Steven <Knott.Steven@epa.gov>
Subject: RE: Application 2635.501

Sharlene – perhaps Noelle can be of assistance to you if you are trying to make an independence/balance determination as these are FACA requirements when considering appointments. Those are not considerations for determining whether an individual member has a conflict of interest or impartiality issue under the ethics laws and regulations that will prevent a member from participating in a matter of general applicability after appointment.

Ferne

Ferne L. Mosley, Attorney-Advisor

Ethics Office – Office of General Counsel
U.S. Environmental Protection Agency
William Jefferson Clinton Building – North, Room 4413A
Washington, DC 20460 (for ground deliveries: 20004)
Mail Code 2311A
Desk phone: (202) 564-8046
Cell phone: (202) 306-2998

From: Matten, Sharlene <Matten.Sharlene@epa.gov>
Sent: Thursday, June 4, 2020 11:37 AM

To: Mosley, Ferne <mosley.ferne@epa.gov>; Knott, Steven <Knott.Steven@epa.gov>

Subject: Application 2635.501

Just want to go over the factors for considering independence and bias in “particular matters of general applicability”

- 1) The Charge to the Panel is a “particular matters of general applicability,”
- 2) The standards for evaluating impartiality stated in 2635.502 do not apply.
- 3) The Agency evaluates the lack of independence/bias.
- 4) Witness testimony – an expert is hired by a law firm to represent the plaintiff or defense in a legal case.

When that testimony is completed and the expert is paid, there is no “covered relationship.” If an individual participates in a FAC, there is “no direct and predictable affect” on the individual/household’s finances. The particular matter is not one involving specific parties.

5) The Federal Government is not part of the lawsuit. There is no representation back to the government as described in 18 U.S.C. 205.

6) One panel member’s viewpoint is one of many on the Panel.

7) Balance is created by a combination of expertise and stakeholder representation.

Sharlene R. Matten, Ph.D.

Acting Division Director, Exposure Assessment Coordination and Policy Division

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e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: [Matten, Sharlene](#)
To: [Fugh, Justina](#)
Cc: [Hughes, Hayley](#); [Knott, Steven](#)
Subject: RE: Asbestos ad hocs/ your audit - where we left off
Date: Wednesday, August 19, 2020 9:59:42 PM

Justina – I am very happy that you got my voice-mail finally. I don't know what our DAA is murmuring about Some of the public commenters insinuated that there might have been undisclosed information – perhaps this is what is going on. I know that Hayley had informed the DAA and AA that we were following up with you. I told Hayley and Steve that you reviewed quite a lot of people beyond the asbestos panel and they were copied on your e-mail with your review.

Thanks,
Sharlene

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Wednesday, August 19, 2020 9:51 PM
To: Matten, Sharlene <Matten.Sharlene@epa.gov>
Cc: Hughes, Hayley <hughes.hayley@epa.gov>; Knott, Steven <Knott.Steven@epa.gov>
Subject: Re: Asbestos ad hocs/ your audit - where we left off

Hi,

I just received Sharlene's voice mail from yesterday (it happens sometimes that they don't get delivered right away). But I still don't understand how any one other than the two of us might even know that I reviewed all of the people (not just the asbestos panel) and found some minor tech issues. So I have no idea what your DAA is murmuring about. Still, I do owe you a write up so will get on that tomorrow.

Justina

Sent from my iPhone

On Aug 19, 2020, at 5:08 PM, Matten, Sharlene <Matten.Sharlene@epa.gov> wrote:

I want to make sure that we have the same expectation. We received a question from our Deputy Assistant Administrator that— (b) (5)

[REDACTED]

(b) (5)

[REDACTED]

(b) (5)

During your audit – (b) (5)

I think we should all touch base again because (b) (5)

I want to ensure that ethics reviews we provide are accurate and I do not want mis-information to be distributed.

Thanks,

Sharlene

Sharlene R. Matten, Ph.D.

Senior Biologist, Exposure Assessment Coordination and Policy Division

Office of Science Coordination and Policy

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington D.C. 20460

e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: [Fugh, Justina](#)
To: [Matten, Sharlene](#); [Hughes, Hayley](#); [Knott, Steven](#)
Subject: RE: Asbestos ad hocs/ your audit - where we left off
Date: Wednesday, August 19, 2020 6:12:00 PM

Hi Sharlene,

I'm not sure what you're asking me to do, but maybe you're too nice to say that I forgot to send you the summary of my previous review? It's on my to do list (recently unearthed) so I'll get to that soonest. (b) (6)

[REDACTED], so I've got a lot of stuff to do!

Justina

From: Matten, Sharlene <Matten.Sharlene@epa.gov>

Sent: Wednesday, August 19, 2020 5:09 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Hughes, Hayley <hughes.hayley@epa.gov>; Knott, Steven <Knott.Steven@epa.gov>

Subject: Asbestos ad hocs/ your audit - where we left off

I want to make sure that we have the same expectation. We received a question from our Deputy Assistant Administrator that— (b) (5)

[REDACTED]

During your audit — (b) (5)

[REDACTED]

I think we should all touch base again because (b) (5)

[REDACTED]

(b) (5)

I want to ensure that ethics reviews we provide are accurate and I do not want mis-information to be distributed.

Thanks,

Sharlene

Sharlene R. Matten, Ph.D.

Senior Biologist, Exposure Assessment Coordination and Policy Division

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Washington D.C. 20460

e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: [Matten, Sharlene](#)
To: [Fugh, Justina](#); [Hughes, Hayley](#)
Cc: [Cole, Joseph E.](#); [Knott, Steven](#)
Subject: RE: confirmation of final advice about confidential financial disclosure reports
Date: Friday, August 21, 2020 5:02:01 PM

Thanks Justina! Appreciate the time and effort you took to review the Asbestos panel selected for the TSCA SACC review in early June 2020.

Sharlene

Sharlene R. Matten, Ph.D.

Senior Biologist, Exposure Assessment Coordination and Policy Division

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e-mail: matten.sharlene@epa.gov

Tel: 202-564-0130

Mobile: 202-768-6629

From: Fugh, Justina <Fugh.Justina@epa.gov>

Sent: Friday, August 21, 2020 4:51 PM

To: Hughes, Hayley <hughes.hayley@epa.gov>

Cc: Cole, Joseph E. <cole.josephe@epa.gov>; Knott, Steven <Knott.Steven@epa.gov>; Matten, Sharlene <Matten.Sharlene@epa.gov>

Subject: confirmation of final advice about confidential financial disclosure reports

Hi Hayley,

In mid-July, your staff and I started a conversation about any possible release of the confidential financial disclosure reports that are completed by applicants to and members of EPA FACA committees. This note confirms that advice and also informs you that I have concluded my personal review of the reports for the TSCA SACC and asbestos ad hoc panel members. As promised, I am sending you this confirmation with a copy to Joseph Cole, Associate General Counsel for the Pesticides and Toxic Substances Law Office for his information.

BACKGROUND ABOUT THE DISCLOSURE REPORT

As set forth in [EPA Ethics Advisory 2008-02](#), all current and potential special government employees at EPA must complete a financial disclosure report. Many of our SGEs complete the confidential disclosure report rather than the public disclosure report. EPA's version of the confidential report, the 3110-48, was approved as an alternative form by the Office of Government Ethics as required by 5 C.F.R. § 2634.905. For the SAP, your own staff reviews the submitted forms, ensures technical completion, and considers possible conflicts or ethical concerns, and then you as the Deputy Ethics Official approve them. If you or your staff have any questions regarding a submission or a member, then you may certainly consult with us. I'm delighted to report, that over the years, your staff has worked collegially and seamlessly with my staff and me. We enjoy working with you all very much indeed.

DISCLOSURE FORMS EXEMPT FROM RELEASE UNDER FOIA

Section 107(a)(2) of the Ethics In Government Act of 1978 (EIGA), 5 U.S.C. app 107(a)(2), makes clear that financial disclosure reports are exempt from release under FOIA. We can never release the confidential reports, including EPA's 3110-48 version, under FOIA. In our FOIA responses, we cite to the EIGA as well as to exemption 3 of the FOIA statute, 5 U.S.C. § 552(b)(3).

RELEASE WITHIN THE AGENCY

Your staff wondered whether the 3110-48s could be released or shared within the agency under the Privacy Act, particularly under the "need to know" exception at 5 U.S.C. § 552a(b)(1) or the "routine use" exception at 5 U.S.C. § 552a(b)(3). After consultation with OGC's information lawyers, we recently agreed that the EPA's Personnel Security Branch (PSB) met the requisite "need to know" threshold to view a confidential financial disclosure report for a regular government employee given their authority under Executive Order 13488 to conduct background investigations of employees to ensure their continued employment. And we recently advised another FACA committee to release a 3110-48 to EPA's Office of Homeland Security under the "routine use" exception because OHS serves as the intermediary for the other federal agency pursuant to EPA Order 3230. Remember, not only is the form subject to the Privacy Act, but so are its contents. You can't release the form without specific authority and you can't "confirm or deny" that certain information is on the form.

REVIEW OF THE TSCA SACC PERMANENT PANEL AND ASBESTOS AD HOC MEMBERS

Although I have every confidence in the thoroughness of your staff, you asked me to review personally the confidential financial disclosure reports for the twelve permanent members and the ten ad hoc members. I identified no technical or conflicts review issues with any of those reports. So you can tell anyone who asks that the Alternate Designated Agency Ethics Official (that's me) had no concerns with SAP staff's review and your certification of the confidential financial disclosure reports for the permanent panel and asbestos ad hoc members.

All the best,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

(b) (5), (b) (6), (b) (3) (A)

[Redacted text block]

Please note that the files did not include any confidential financial disclosure reports at all for the following, so I could not review them:

- (b) (5) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Thanks,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

BERKSHIRE HATHAWAY SUBSIDIARIES

| SUBSIDIARY | WHAT IT DOES | AFFECTED SECTOR |
|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Acme Brick Company | Brick manufacturer | Brick manufacture |
| Ben Bridge Jeweler | Jeweler | Jewelry retail |
| Benjamin Moore & Co. | Paint manufacturer | Paint manufacture |
| Berkshire Hathaway Automotive | Property and casualty insurance and reinsurance, utilities and energy, freight rail transportation, finance, manufacturing, retail services | Insurance, utilities, freight rail transportation, retail services |
| Berkshire Hathaway Direct Insurance Company (THREE) | Insurance | Insurance |
| Berkshire Hathaway Energy Company | Energy & utility services (wind, solar, hydro, geothermal, natural gas, coal). Includes PacifiCorp, MidAmerican Energy Company, NV Energy, Northern Powergrid, Northern Natural Gas, Kern River Gas Transmission Company, BHE Renewables, AltaLink, BHE U.S. Transmission, HomeServices of America | Utility and energy |
| Berkshire Hathaway GUARD Insurance Companies | Insurance | Insurance |
| Berkshire Hathaway Homestate Companies | Insurance | Insurance |
| Berkshire Hathaway Specialty Insurance | Insurance | Insurance |
| BiBERK Business Insurance | Insurance | Insurance |
| BoatUS | Insurance products and services | Insurance |
| Borsheims Fine Jewelry | Jeweler | Jewelry retail |
| Brooks | Running shoes | Shoe retail |
| BNSF | Railway transportation | Railway transportation |
| Business Wire | Press communication | Mass media |
| Central States Indemnity Company | insurance | Insurance |
| Charter Brokerage | Customs clearance service | Customs broker |
| Clayton Homes | Home builder | Home builder |
| CORT Business Services | Furniture manufacturer and retailer | Furniture |
| CTB Inc. | Agribusiness. Includes AgroLogic, Brock, Cabinplant, CAT2, Chore-Time, Fancom, Ironwood Plastics, Laake, | Agriculture products and supply |

| | | |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| | Lemar Industries, Meyn, PigTek, Roxell, Serupa | |
| Duracell | Battery manufacturer | Battery manufacture |
| Fechheimer Brothers Company | Uniform manufacturer | Clothing manufacture |
| FlightSafety | Aviation simulation design, manufacturing, support | Aviation products and supplies |
| Forest River | Recreational vehicle manufacturer | Motor vehicle manufacture |
| Fruit of the Loom Companies | Clothing manufacturer. Includes Fruit of the Loom, Russell Brands, Vanity Fair Brands | Clothing manufacture |
| Garan Incorporated | Clothing manufacturer | Clothing manufacture |
| Gateway Underwriters Agency | Insurance | Insurance |
| GEICO Auto Insurance | insurance | Insurance |
| General Re | reinsurance | Insurance |
| Helzberg Diamonds | jewelry | Jewelry retail |
| H.H. Brown Shoe Group | Shoe manufacturer and retailer | Shoe manufacture |
| HomeServices of America | Real estate brokerage | Real Estate |
| International Dairy Queen, Inc. | Ice cream and food retail | Food retail |
| IMC International Metalworking Companies | Metalworking producer. Includes ISCAR, TaeguTec, Tungaloy, Ingersoll Cutting Tools | Metalwork manufacture |
| Johns Mansville | Home construction products | Home construction |
| Jordan's Furniture | Furniture manufacturer and retailer | Furniture manufacture |
| Justin Brands | Boot manufacturer | Shoe manufacture |
| Kraft Heinz | Consumer foods | Food |
| Larson-Juhl | Framing equipment and supplies | Framing manufacture |
| LiquidPower Specialty Products, Inc. | Pipeline drag reduction | Pipeline support services |
| Louis – Motorcycle & Leisure | Bicycling clothing and equipment | Clothing manufacture |
| Lubrizol Corporation | Lubricant manufacturer, pipeline technology | Lubricant manufacture, pipeline support services |
| Marmon Holdings | Crane services, electrical, foodservice technologies, industrial products, medical, metal services, plumbing and | Industrial products manufacture, plumbing, railway, water technologies |

| | | |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| | refrigeration, rail and leasing, retail solutions, transportation products, water technologies | |
| McLane Company | Grocery wholesaler and distributor | grocery |
| MedPro Group | Health care services | Health services |
| MiTek Inc. | Manufacturer (2K Polymers, Aegis Metal Framing, Automated Equipment, Benson Industries, Blok-Lok, BuilderMT, Ellis & Watts, Hardy Frame/Zone 4, Heat Pipe Technology, Hohmann & Barnard, M&M Manufacturing, MiTek Canada, MiTek Kova, MiTek Mezzanine Systems, MiTek Truss Connectors, MiTek USA, Platinum Global, Sales Simplicity, Sideplate, Snappy, USP Structural Connectors, TMI Climate Solutions, TBS Engineering, Wrightsoft | Industrial products manufacture |
| MLMIC Insurance Company | Insurance | Insurance |
| National Indemnity Company | Insurance | Insurance |
| Nebraska Furniture Mart | Furniture manufacturer | Furniture manufacture |
| NetJets | Executive jets | Airplanes |
| Oriental Trading Company | Retail | Retail |
| Pampered Chef | retail | Retail |
| Precision Castparts Corp. | Airplane parts supplier and manufacturer | Airplane products manufacture |
| Precision Steel Warehouse, Inc. | Steel products manufacturer | Steel products manufacture |
| RC Willey Home Furnishings | Furniture and home furnishings retail | Furniture |
| Richline Group | precious metals and materials manufacturer and marketer | Metal manufacture |
| Scott Fetzer Companies | Manufacturer of home goods to advanced industrial technologies. Includes Adalet, Altaquip, American Angler, Ambucor, Arbortech, Blue Angel Pumps, Carefree, Cleanovation, CWP Technologies, France Lighting Solutions, Ginsu, Halex, | Industrial products and services |

| | | |
|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| | Kingston Manufacturing, Kirby, Northland Motor Technologies, Powerex, Readivac, ScottCare, Scott Fetzer Consumer Brands, SFEG, SFFG, Sol-Lux, Stahl Truck Bodies and Cranes, United Consumer Financial Services, Wayne WaterBug, Wayne Combustion Systems, Wayne, Western, Western Plastics, World Book, World Book Childcraft, World of Wisdom | |
| See's Candies | Candy manufacturer and retailer | Food services |
| Shaw Industries | Flooring company | Flooring |
| Star Furniture | Furniture and mattress retailer | Furniture |
| TTI, Inc. | Electric component distribution | Electrical components |
| United States Liability Insurance Group | Insurance | Insurance |
| XTRA Corporation | Trailer rental service | trailers |

From: [Matten, Sharlene](#)
To: [Fugh, Justina](#)
Cc: [Knott, Steven](#); [Hughes, Hayley](#)
Subject: Re: update on my review of the files you sent me (asbestos)
Date: Friday, August 07, 2020 12:40:28 PM

Thanks! (b) (5)

[REDACTED]

Thanks again,
Sharlene

Sharlene R Matten, PhD
Senior Biologist, Exposure Assessment Coordination and Policy Division
Office of Science Coordination and Policy
US Environmental Protection Agency
Washington DC
EPA iPhone: 202-768-6629
Office- 202-564-0130
E-mail: Matten.sharlene@epa.gov

On Aug 7, 2020, at 12:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Sharlene,

I really think that you've already addressed my questions, so no need to do more.
THANKS! All that's left is for me to close out with a note to Hayley, copying Joe Cole and you guys. I will have to get to that over the weekend (sorry!).

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Matten, Sharlene <Matten.Sharlene@epa.gov>
Sent: Friday, August 07, 2020 11:15 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Knott, Steven <Knott.Steven@epa.gov>; Hughes, Hayley <hughes.hayley@epa.gov>
Subject: RE: update on my review of the files you sent me (asbestos)

Hi Justina – Yes, I will to a response to each one.

I will add the notes you made so that when we look at these particular individuals we will have them for reference.

Thanks,
Sharlene

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Friday, August 7, 2020 10:38 AM

To: Matten, Sharlene <Matten.Sharlene@epa.gov>

Cc: Knott, Steven <Knott.Steven@epa.gov>; Hughes, Hayley <hughes.hayley@epa.gov>

Subject: RE: update on my review of the files you sent me (asbestos)

Hi Sharlene,

Oh rats, I forgot about your note with the actual names, but I will solace myself with the knowledge that I can count the time as an “audit” and claim credit for it in one of our required responses to OGE and GAO! So you’re taking the extra time to answer my questions will work out great! THANKS!

I’m off this afternoon and Monday, but I will do my “close out” note to you guys and Hayley as soon as I can before Monday.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Matten, Sharlene <Matten.Sharlene@epa.gov>

Sent: Friday, August 07, 2020 1:10 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Knott, Steven <Knott.Steven@epa.gov>; Hughes, Hayley <hughes.hayley@epa.gov>

Subject: Re: update on my review of the files you sent me (asbestos)

Thanks Justina. I appreciate the reviews and comments. Unfortunately, some of your time was wasted. We were looking for your review of (b) (5)

[REDACTED]

[REDACTED] See the roster below. I sent an email after we visited with their names. I sent a separate email with the link to all of my files for SGEs , RGEs, and potential candidates. I thought I was clear. Somehow, you ended up reviewing all of the people in my ONE Drive - most of whom had nothing to do with the Asbestos panel. For that I am sorry. (b) (5)

[REDACTED]

To answer your specific questions

(b) (5), (b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (5)

Hayley and I finished our review around 6 pm.

Thanks for the reviews. I appreciate them. I will add notes to the files.

Thanks,
Sharlene

TOXIC SUBSTANCES CONTROL ACT (TSCA)

SCIENCE ADVISORY COMMITTEE ON CHEMICALS (SACC)

PUBLIC MEETING APRIL 27-30, 2020

TSCA SACC Website: <https://www.epa.gov/tsca-peer-review>

DOCKET ID NUMBER: EPA-HQ-OPPT-2019-0501

**U.S. Environmental Protection Agency
Peer Review for the U.S. EPA Draft Risk Evaluation for
Asbestos**

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Thanks,

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On Aug 6, 2020, at 9:01 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Sharlene,

Thanks for sharing the files (b) (5)

[REDACTED]

(b) (5) [REDACTED]
[REDACTED]
[REDACTED] Set forth below are
the results of my review. If you can update me about (b) (5) [REDACTED]
[REDACTED], I'll be able to provide my final assessment.

- (b) (5), (b) (6), (b) (3) (A) [REDACTED]
[REDACTED]
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(b) (6), (b) (5), (b) (3) (A)

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(b) (6), (b) (5), (b) (3) (A)

[Redacted text block containing approximately 35 lines of information]

Please note that the files did not include any confidential financial disclosure reports at all for the following, so I could not review them:

- (b) (5) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

- (b) (5) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Thanks,

Justina

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